

APPEAL NO. 012346
FILED NOVEMBER 21, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on September 18, 2001. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease with a date of injury of _____, and that the claimant had disability as a result of that compensable injury from March 5, 2001, through April 17, 2001. The appellant (carrier) appealed. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

COMPENSABLE INJURY

The hearing officer did not err in determining that the claimant sustained a compensable injury. The claimant claimed a repetitive trauma injury from her work activities of using a computer keyboard. The claimant had the burden to prove that she was injured in the course and scope of her employment. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury. Section 401.011(36) defines "repetitive trauma injury" as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision that the claimant sustained a compensable injury in the form of an occupational disease is supported by the testimony of the claimant and the opinion of the claimant's treating doctor. The hearing officer's decision is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

DISABILITY

The hearing officer did not err in determining that the claimant had disability from March 5, 2001, through April 17, 2001. Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The hearing officer's decision on the disability issue is supported by the claimant's testimony and the reports of the treating doctor, and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, *supra*.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is as follows:

**CORPORATION SERVICE COMPANY
800 BRAZOS
SUITE 750
COMMODORE I
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Thomas A. Knapp
Appeals Judge